

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

WELBY THOMAS COX, JR.,)	
Plaintiff,)	
)	
vs.)	1:12-cv-1736-JMS-TAB
)	
KNIGHTS OF COLUMBUS INSURANCE COMPA-)	
NY, <i>et al.</i> ,)	
Defendants.)	

ORDER TO FILE AMENDED COMPLAINT

A federal court always has a responsibility to ensure that it has jurisdiction, *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 427 (7th Cir. 2009). Plaintiff Welby Thomas Cox, Jr., filed this action *pro se* against Defendants Knights of Columbus Insurance Company (“Knights of Columbus”) and Jane Bacon Cox, alleging that this Court can exercise diversity jurisdiction over the matter. [Dkt. 1 at 1 ¶ B.1.] For the following reasons, the Court cannot assure itself that diversity jurisdiction is proper.

Mr. Cox alleges that Knights of Columbus “is a citizen of Connecticut, whose address is [located in Connecticut].” [*Id.* at ¶ A.2.] This allegation is insufficient to allege Knights of Columbus’ citizenship because a corporation is deemed a citizen of both 1) where it is incorporated, and 2) where it has its principal place of business. 28 U.S.C. § 1332(c)(1); see also *Smoot v. Mazda Motors of Am., Inc.*, 469 F.3d 675, 676 (7th Cir. 2006) (a corporation has two places of citizenship: where it is incorporated and where it has its principal place of business). Mr. Cox has not alleged where Knights of Columbus is incorporated or that the address he lists is its principal place of business. Accordingly, Knights of Columbus’ citizenship is unclear.

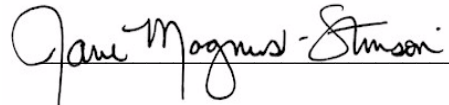
Additionally, in order for the Court to exercise diversity jurisdiction, the amount in controversy must be at least \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332. The propo-

ment of jurisdiction has the burden of showing by a preponderance of the evidence the facts that suggest the amount in controversy is met. *Oshana v. Coca-Cola, Co.*, 472 F.3d 506 (7th Cir. 2006). Although a plaintiff may aggregate the amounts against defendants to satisfy the amount in controversy requirement if the defendants are jointly liable, a plaintiff must satisfy the amount in controversy requirement against each individual defendant if the defendants are severally liable. *LM Ins. Corp. v. Spaulding Enters.*, 533 F.3d 542, 548 (7th Cir. 2008).

While Mr. Cox alleges that his claim for relief exceeds \$75,000, he does not include the “exclusive of interest and costs” language. [Dkt. 1 at 1 ¶ B.1.] Moreover, after reviewing the Complaint, the Court is unsure that the requisite amount of controversy exists. Mr. Cox alleges that Ms. Cox took the cash values of certain life insurance policies, “amounting to several thousand dollars.” [*Id.* at 2 ¶ C.] Mr. Cox also lists certain assets he claims are at issue in his prayer for relief; however, he does not list the value of these items. [*Id.* at ¶¶ F 1-4.] And while Mr. Cox seeks \$10,000,000 in punitive damages, [*id.* at ¶ F.5], “[t]he Seventh Circuit looks with skepticism upon the possibility of punitive damages to satisfy large portions of the jurisdictional amount, *see Anthony v. Sec. Pac. Fin. Servs.*, 75 F.3d 311, 315 (7th Cir. 1996) (“When a claim for punitive damages makes up the bulk of the amount in controversy, and may even have been colorably asserted solely to confer jurisdiction, we should scrutinize that claim closely.”).

For these reasons, the Court **ORDERS** Mr. Cox to file an Amended Complaint by **April 26, 2013**, properly pleading 1) Knights of Columbus’ citizenship (*i.e.*, where it is incorporated and where its principal place of business is located), and 2) the amount in controversy for his claims against each of the defendants. Mr. Cox must specifically identify the value of each item in controversy, as well which defendant he seeks to hold liable for each alleged amount. Should they be served, Defendants need not answer the Complaint Mr. Cox previously filed.

04/10/2013

A handwritten signature in black ink, reading "Jane Magnus-Stinson". The signature is written in a cursive style with a horizontal line underneath.

Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution via US Mail:

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